

MINISTRY OF AGRICULTURE AND FISHERIES AMENDMENT BILL

EXPLANATORY NOTE

Clause 1 relates to the Bill's Short Title.

Clause 2 relates to the Ministry's functions.

Subclause (1) amends the Ministry of Agriculture and Fisheries Act 1953 so as to repeal those provisions that give the Ministry specific "principal functions". The effect is that, as is the case with some other departments of State, most of the Ministry's functions (that is to say those functions not found in other specific enactments) will now be determined from time to time by the Crown.

Subclause (2) consequentially amends a provision relating to the powers of the Minister.

Subclauses (3) and (4) make a consequential amendment and consequential repeals.

Subclause (5) makes clear that the clause does not deprive the Ministry of any function.

Subclause (6) provides that the fact that the Ministry, the Minister, and the Director-General have the powers, duties, and functions of the former Marketing Department, Minister of Marketing, and Director of Marketing, does not limit or affect the Department's functions or the Minister's powers.

Subclause (7) relates to contracts that the Ministry has entered into over the years. The validity of such contracts depends on whether or not they relate to doing things that were at the time functions of the Ministry (or, where a contract was made by the Minister, whether or not the Minister had power to enter into contracts of the kind). Recently, some doubts have been expressed as to the validity of some of these contracts. The invalidity of any contract could have serious consequences for both parties to it; and the subclause enables the Minister to ratify a doubtful contract if, at the time of ratification, the Ministry has the appropriate functions (or the Minister has the appropriate powers).

Hon. Jim Sutton

**MINISTRY OF AGRICULTURE AND FISHERIES
AMENDMENT**

ANALYSIS

Title 1. Short Title	2. Principal functions of Department
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A BILL INTITULED

An Act to amend the Ministry of Agriculture and Fisheries Act 1953

BE IT ENACTED by the Parliament of New Zealand as follows:

- 5 **1. Short Title**—This Act may be cited as the Ministry of Agriculture and Fisheries Amendment Act 1990, and shall be read together with and deemed part of the Ministry of Agriculture and Fisheries Act 1953* (hereinafter referred to as the principal Act).
- 10 **2. Principal functions of Department**—(1) The following enactments are hereby repealed:
- (a) Section 4 of, and the Schedule to, the principal Act:
- (b) Sections 4 (1) and 5 (1) of the Ministry of Agriculture and Fisheries Amendment Act 1972:
- 15 (c) Sections 3 (2) and 4 (1) of the Ministry of Agriculture and Fisheries Amendment Act 1989.
- (2) Section 11 (1) of the principal Act is hereby consequentially amended by repealing paragraph (j), and substituting the following paragraph:
- 20 “(j) Do all other things reasonably necessary or desirable for the economical, effective, and efficient performance of the Department’s functions.”

*R.S. Vol. 18, p. 509
Amendments: 1988, No. 74; 1989, No. 17

(3) Section 2 of the Finance Act 1947 is hereby amended by repealing subsection (2), and substituting the following subsection:

- “(2) The Minister of Agriculture may from time to time—
- “(a) On behalf of Her Majesty the Queen, subscribe for or otherwise acquire shares or interests in any body corporate that may lawfully do things similar to things the performance of which is for the time being a function of the Ministry of Agriculture and Fisheries: 5
- “(b) Out of money appropriated by Parliament for the purpose, pay for those shares or interests: 10
- “(c) On behalf of Her Majesty the Queen, exercise any of Her Majesty’s rights and powers as—
- “(i) The holder or owner of the shares or interests; 15
- or
- “(ii) A member of the body corporate.”

(4) The following enactments are hereby consequentially repealed:

- (a) Section 10 (2) of the Orchard Levy Act 1953: 20
- (b) Section 32 (3) of the Plants Act 1970:
- (c) Section 30 of the Meat Export Prices Act 1976:
- (d) Section 19 of the Wine Makers Levy Act 1976:
- (e) So much of the First Schedule to the Wool Industry Act 1977 as relates to the principal Act: 25
- (f) Section 13 of the Hive Levy Act 1978:
- (g) Section 120 (1) of the Noxious Plants Act 1978:
- (h) Section 9 of the Pesticides Act 1979:
- (i) Section 20 of the Phosphate Commission of New Zealand Act 1981: 30
- (j) So much of the First Schedule to the Dog Control and Hydatids Act 1982 as relates to the principal Act:
- (k) Section 25 (1) of the Fertilisers Act 1982:
- (l) Section 43 (2) of the Pork Industry Board Act 1982:
- (m) So much of the Third Schedule to the Commerce Act 1986 as relates to the Ministry of Agriculture and Fisheries Amendment Act 1976: 35
- (n) Section 40 of the Plant Variety Rights Act 1987:
- (o) So much of the Second Schedule to the Conservation Act 1987 as relates to the principal Act: 40
- (p) Section 64 (1) of the New Zealand Horticulture Export Authority Act 1987:
- (q) Section 18 of the Wheat Producers Levy Act 1987:
- (r) The Ministry of Agriculture and Fisheries Amendment Act 1988: 45

- (s) So much of the Third Schedule to the Milk Act 1988 as relates to the principal Act:
- (t) Section 19 of the Wool Testing Authority Dissolution Act 1988:
- 5 (u) Section 4 (1) of the Poultry Board Act Repeal Act 1989:
(v) Section 3 (2) of the Dairy Industry Amendment Act 1989.
- (5) Nothing in this section deprives the Department of any function.
- (6) For the avoidance of doubt, it is hereby declared that—
- 10 (a) The functions of the Department, and the power of the Crown to give the Department new or extended functions, are not limited or affected by—
- (i) The fact that the Department has (by virtue of section 2 (2) of the Marketing Amendment Act 1953) all rights, powers, duties, functions, discretions, liabilities, and contracts, exercisable by, vested in, or binding on the former Marketing Department (established by section 4 of the Marketing Act 1936 as the Primary Products Marketing Department, and abolished by section 2 (1) of the Marketing Amendment Act 1953); or
- 15 20
- (ii) The fact that the Director-General has (by virtue of section 4 (1) of the Marketing Amendment Act 1953) all rights, powers, duties, functions, discretions, liabilities, and contracts, exercisable by, vested in, or binding on the Director of Marketing; and
- 25 (b) The powers of the Minister are not limited or affected by the fact that the Minister has (by virtue of section 3 (1) of the Marketing Amendment Act 1953) all rights, powers, duties, functions, discretions, liabilities, and contracts, exercisable by, vested in, or binding on the Minister of Marketing.
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- (7) Where—
- (a) At any time before the commencement of this Act there was entered into a contract that was lawful if—
- 35 “(i) The Department then had particular functions; or
- (ii) The Minister then had particular powers,— and unlawful if it did not then have those functions and the Minister did not then have those powers; and
- 40 (b) At any time after that commencement the Department has those functions or the Minister has those powers,—
- 45 the Minister may at that later time (by writing specifying the functions or powers relied on) ratify the contract; and in that

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case the contract, and all actions of any person, shall be deemed to be as valid and effectual as they would be and have been if the Department had had those functions or (as the case may be) the Minister had had those powers when the contract was entered into. 5